

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RANDALL D. and BARBARA HOLT,

Plaintiffs,

V.

BOART LONGYEAR COMPANY,

Defendant.

CASE NO. C13-5655 BHS

ORDER DENYING PLAINTIFFS' MOTION TO REMAND

This matter comes before the Court on Plaintiffs Randall and Barbara Holt's

(“Holts”) motion to remand (Dkt. 6). The Court has considered the pleadings filed in

16 support of and in opposition to the motion and the remainder of the file and hereby denies

17 || the motion for the reasons stated herein.

I. PROCEDURAL HISTORY

On July 26, 2013, the Holts filed a complaint against Defendant Boart Longyear

20 Company (“Boart”) in Pierce County Superior Court for the State of Washington. Dkt.

²¹ 10. Declaration of Paul R. Taylor, Exh. 1 (“Comp.”). The Holts assert causes of action

1 for (1) termination of the parties' lease, and (2) injunctive relief of removal of the
2 assigned occupier of the Holts' property. *Id.*

3 On August 2, 2013, Boart removed the matter to this Court. Dkt. 1.

4 On August 15, 2013, the Holts filed a motion for remand. Dkt. 6. On September
5 3, 2013, Boart responded. Dkt. 9. On September 6, 2013, the Holts replied. Dkt. 12.

6 **II. DISCUSSION**

7 The Holts argue that the Court should remand the matter because the amount in
8 controversy does not exceed the jurisdictional minimum or, in the alternative, the Court
9 should abstain from this local landlord-tenant matter.

10 **A. Amount in Controversy**

11 Diversity jurisdiction requires that at least \$75,000 is in controversy. 28 U.S.C. §
12 1332. When the complaint is unclear and the action has been removed from state court,
13 defendant "bears the burden of establishing, by a preponderance of the evidence, that the
14 amount in controversy exceeds [the jurisdictional minimum]." *Sanchez v. Monumental*
15 *Life Ins. Co.*, 102 F.3d 398, 404 (9th Cir. 1996). "Under this burden, the defendant must
16 provide evidence establishing that it is 'more likely than not' that the amount in
17 controversy exceeds that amount." *Id.*

18 In this case, Boart has met its burden. It is undisputed that approximately
19 \$200,000 in rent, at \$19,000 per month, remains to be paid under the lease. The Holts
20 request that Boart be held liable for either this amount or monthly rent until the premise is
21 relet. Comp. ¶ 5.1.3. The Holts argue that Boart has failed to show that it would take
22 four months or longer to relet the property and, therefore, the amount in controversy is

1 less than the jurisdictional minimum. The fact that the case was even filed, however, is
2 evidence that it is more likely than not that the property will not be relet within four
3 months. The current controversy regarding assignment of the lease began in February
4 2013, which is more than four months, and has not been resolved. Moreover, the level of
5 detailed information that the Holts have requested of the proposed assignee show that any
6 subsequent leasing of the property will most likely be a complicated business transaction
7 that could take many months to finalize. Therefore, the Court denies the Holts' motion
8 on this issue.

9 **B. Abstention**

10 The Holts' arguments in favor of abstention are based on unlawful detainer actions
11 where the rightful possessor of the property has already been determined. *See* Dkt. 6 at
12 10–12. These authorities are completely inapplicable to the current controversy in which
13 possession pursuant to a lease is disputed. Therefore, the Court denies the Holts' motion
14 on this issue.

15 **III. ORDER**

16 Therefore, it is hereby **ORDERED** that the Holts' motion to remand (Dkt. 6) is
17 **DENIED**.

18 Dated this 12th day of September, 2013.

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BENJAMIN H. SETTLE
United States District Judge